IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

F.A.O. No.1176 of 2006
Date of Decision: 12.10.2006

Smt.Rajni and another.

..... Appellants

Versus

Veena and others.

..... Respondents

CORAM: Hon'ble Mr.Justice Uma Nath Singh
Hon'ble Mr.Justice Mahesh Grover

....

Present: Shri J.L.Malhotra, Advocate for the appellants.

....

Mahesh Grover,J.

In the present appeal filed by the owner of the Tanker which was alleged to have been involved in an accident, challenge has been made to award dated 7.11.2005 of Motor Accident Claims Tribunal, Sonepat (hereinafter described as `the Tribunal') passed in Claim Petition No.106 of 2003/2004.

The only contention that has been raised by the learned counsel for the appellant is that the deceased was not travelling in the vehicle in question which is a Tanker and that, in fact, he was by-stander on the road,

who died when the Tanker over-turned because of the rains. On the strength of this argument, it was sought to be pleaded that the liability of the accident should have been fastened on the Insurance company and the finding of the Tribunal fastening the liability of Rs.3,89,000/- upon the appellant on the ground that there was violation of the terms of the insurance policy is not correct.

We have thoughtfully considered the arguments of the learned counsel for the appellant and have also perused the impugned award, as also the statements of the witnesses, certified copies of which were produced by him during the course of hearing. The version as given by the appellant is belied by the evidence of PW2-Yusuff, who was an injured witness travelling in the same Tanker along with four–five persons, when read in totality. The deceased and four-five persons had boarded the Tanker bearing no. HR-58-2319 from Panipat for going to Kandhla. In the face of this evidence of the injured eye witness, the self serving statement of the appellant cannot be relied upon. The vehicle in question was a Tanker and consequently the policy of insurance did not permit carrying of passengers which was a breach of conditions of the policy. In the wake of this clear violation established by cogent evidence on record, there is no reason to differ with the findings recorded by the Tribunal.

For the foregoing reasons, the appeal being devoid of any merit is dismissed in limine.

(Uma Nath Singh)
Judge

(Mahesh Grover)
Judge

October 12,2006
"SCM"